

HOUSE BILL No. 1726

DIGEST OF INTRODUCED BILL

Citations Affected: IC 5-14; IC 16-18-2-168; IC 16-19-3-25; IC 16-31-2-11.

Synopsis: Various open door and public records provisions. Provides that the open door law and public records law apply to entities created by a public agency to take official action on public business. Provides that, under certain conditions, the open door law applies to a series of gatherings of the members of a governing body with less than a quorum of members present at each gathering. Permits public agencies to give the media notice of public meetings by facsimile machine. Deletes the continuous session and administrative functions exceptions to the requirement for notice of public meetings. Specifies that the deliberative materials exception to disclosure does not apply to records or parts of records that are statistical or factual tabulations or data or
(Continued next page)

Effective: July 1, 1999.

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January 26, 1999, read first time and referred to Committee on Rules and Legislative Procedures.



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final agency policy or determinations. Provides that a public agency must provide certain information concerning a suspected crime, accident, or complaint even if the public agency has failed to create a log or record listing such crimes, accidents, or complaints. Requires a public agency to make records available for inspection and copying in an expeditious manner. Requires emergency ambulance services to disclose certain information concerning ambulance runs. Requires the state department of health to release certain inspection reports and related records.

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Introduced

First Regular Session 111th General Assembly (1999)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1998 General Assembly.

HOUSE BILL No. 1726

A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 5-14-1.5-2 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 2. For the purposes of
3 this chapter:
4 (a) "Public agency" means the following:
5 (1) Any board, commission, department, agency, authority, or
6 other entity, by whatever name designated, exercising a portion of
7 the executive, administrative, or legislative power of the state.
8 (2) Any county, township, school corporation, city, town, political
9 subdivision, or other entity, by whatever name designated,
10 exercising in a limited geographical area the executive,
11 administrative, or legislative power of the state or a delegated
12 local governmental power.
13 (3) Any entity which is subject to either:
14 (A) budget review by either the state board of tax
15 commissioners or the governing body of a county, city, town,



township, or school corporation; or

(B) audit by the state board of accounts.

(4) Any building corporation of a political subdivision of the state of Indiana that issues bonds for the purpose of constructing public facilities.

(5) Any advisory commission, committee, or body created by statute, ordinance, or executive order to advise the governing body of a public agency, except medical staffs or the committees of any such staff.

(6) The Indiana gaming commission established by IC 4-33, including any department, division, or office of the commission.

(7) The Indiana horse racing commission established by IC 4-31, including any department, division, or office of the commission.

(8) Any entity created by a public agency to take official action on public business.

(b) "Governing body" means two (2) or more individuals who are:

(1) a public agency that:

(A) is a board, a commission, an authority, a council, a committee, a body, or other entity; and

(B) takes official action on public business;

(2) the board, commission, council, or other body of a public agency which takes official action upon public business; or

(3) any committee appointed directly by the governing body or its presiding officer to which authority to take official action upon public business has been delegated. An agent or agents appointed by a school corporation to conduct collective bargaining on behalf of that school corporation does not constitute a governing body for purposes of this chapter.

(c) "Meeting" means:

(1) a gathering of a majority of the governing body of a public agency for the purpose of taking official action upon public business; ~~It or~~

(2) a series of gatherings of the governing body that fulfills all of the following:

(A) The gatherings are held during any sixty (60) day period.

(B) At least one (1) member of the governing body at each gathering intends to avoid the application of this chapter.

(C) Official action is taken upon public business at each of the gatherings.

(D) At least three (3) members of the governing body attend one (1) of the gatherings.

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(E) The total number of members of the governing body that attend the series of gatherings equals at least a quorum of the members of the governing body.

The term does not include

- ~~(1)~~ any social or chance gathering not intended to avoid this chapter,
- ~~(2)~~ any on-site inspection of any project or program,
- ~~(3)~~ traveling to and attending meetings of organizations devoted to betterment of government, or
- ~~(4)~~ a caucus.

(d) "Official action" means to:

- (1) receive information;
- (2) deliberate;
- (3) make recommendations;
- (4) establish policy;
- (5) make decisions; or
- (6) take final action.

(e) "Public business" means any function upon which the public agency is empowered or authorized to take official action.

(f) "Executive session" means a meeting from which the public is excluded, except the governing body may admit those persons necessary to carry out its purpose.

(g) "Final action" means a vote by the governing body on any motion, proposal, resolution, rule, regulation, ordinance, or order.

(h) "Caucus" means a gathering of members of a political party or coalition which is held for purposes of planning political strategy and holding discussions designed to prepare the members for taking official action.

(i) "Deliberate" means a discussion which may reasonably be expected to result in official action (defined under subsection (d)(3), (d)(4), (d)(5), or (d)(6)).

(j) "News media" means all newspapers qualified to receive legal advertisements under IC 5-3-1, all news services (as defined in IC 34-6-2-87), and all licensed commercial or public radio or television stations.

(k) "Person" means an individual, a corporation, a limited liability company, a partnership, an unincorporated association, or a governmental entity.

SECTION 2. IC 5-14-1.5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 5. (a) Public notice of the date, time, and place of any meetings, executive sessions, or of any rescheduled or reconvened meeting, shall be given at least forty-eight



(48) hours (excluding Saturdays, Sundays, and legal holidays) before the meeting. This requirement does not apply to reconvened meetings (not including executive sessions) where announcement of the date, time, and place of the reconvened meeting is made at the original meeting and recorded in the memoranda and minutes thereof, and there is no change in the agenda.

(b) Public notice shall be given by the governing body of a public agency by:

(1) posting a copy of the notice at the principal office of the public agency holding the meeting or, if no such office exists, at the building where the meeting is to be held; and

(2) depositing in the United States mail with postage prepaid, **transmitting via facsimile machine**, or by delivering notice to all news media which deliver by January 1 an annual written request for such notices for the next succeeding calendar year to the governing body of the public agency. If a governing body comes into existence after January 1, it shall comply with this subdivision upon receipt of a written request for notice.

(c) Notice of regular meetings need be given only once each year, except that an additional notice shall be given where the date, time, or place of a regular meeting or meetings is changed. This subsection does not apply to executive sessions.

(d) If a meeting is called to deal with an emergency involving actual or threatened injury to person or property, or actual or threatened disruption of the governmental activity under the jurisdiction of the public agency by any event, then the time requirements of notice under this section shall not apply, but:

(1) news media which have requested notice of meetings must be given the same notice as is given to the members of the governing body; and

(2) the public must be notified by posting a copy of the notice according to this section.

(e) This section shall not apply where notice by publication is required by statute, ordinance, rule, or regulation.

(f) This section shall not apply to:

(1) the state board of tax commissioners; or ~~any other governing body which meets in continuous session; except that this section applies to meetings of these governing bodies which are required by or held pursuant to statute, ordinance, rule, or regulation; or~~
 (2) the executive of a county or the legislative body of a town if the meetings are held solely to receive information or recommendations in order to carry out administrative functions;



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to carry out administrative functions, or confer with staff members on matters relating to the internal management of the unit. "Administrative functions" do not include the awarding of contracts, the entering into contracts, or any other action creating an obligation or otherwise binding a county or town.

~~(g)~~ This section does not apply to (2) the general assembly.

~~(h)~~ (g) Notice has not been given in accordance with this section if a governing body of a public agency convenes a meeting at a time so unreasonably departing from the time stated in its public notice that the public is misled or substantially deprived of the opportunity to attend, observe, and record the meeting.

SECTION 3. IC 5-14-3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 1. A fundamental philosophy of the American constitutional form of representative government is that government is the servant of the people and not their master. Accordingly, it is the public policy of the state that all persons are entitled to full and complete information regarding the affairs of government and the official acts of those who represent them as public officials and employees. Providing persons with the information **in an expeditious manner** is an essential function of a representative government and an integral part of the routine duties of public officials and employees, whose duty it is to provide the information. This chapter shall be liberally construed to implement this policy and place the burden of proof for the nondisclosure of a public record on the public agency that would deny access to the record and not on the person seeking to inspect and copy the record.

SECTION 4. IC 5-14-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 2. As used in this chapter:

(a) "Copy" includes transcribing by handwriting, photocopying, xerography, duplicating machine, duplicating electronically stored data onto a disk, tape, drum, or any other medium of electronic data storage, and reproducing by any other means.

(b) "Direct cost" means one hundred five percent (105%) of the sum of the cost of:

- (1) the initial development of a program, if any;
- (2) the labor required to retrieve electronically stored data; and
- (3) any medium used for electronic output;

for providing a duplicate of electronically stored data onto a disk, tape, drum, or other medium of electronic data retrieval under section 8(g) of this chapter, or for reprogramming a computer system under section 6(c) of this chapter.

(c) "Electronic map" means copyrighted data provided by a public



agency from an electronic geographic information system.

(d) "Enhanced access" means the inspection of a public record by a person other than a governmental entity and that:

(1) is by means of an electronic device other than an electronic device provided by a public agency in the office of the public agency; or

(2) requires the compilation or creation of a list or report that does not result in the permanent electronic storage of the information.

(e) "Facsimile machine" means a machine that electronically transmits exact images through connection with a telephone network.

(f) "Inspect" includes the right to do the following:

(1) Manually transcribe and make notes, abstracts, or memoranda.

(2) In the case of tape recordings or other aural public records, to listen and manually transcribe or duplicate, or make notes, abstracts, or other memoranda from them.

(3) In the case of public records available:

(A) by enhanced access under section 3.5 of this chapter; or

(B) to a governmental entity under section 3(c)(2) of this chapter;

to examine and copy the public records by use of an electronic device.

(4) In the case of electronically stored data, to manually transcribe and make notes, abstracts, or memoranda or to duplicate the data onto a disk, tape, drum, or any other medium of electronic storage.

(g) "Investigatory record" means information compiled in the course of the investigation of a crime.

(h) "Patient" has the meaning set out in IC 16-18-2-272(c).

(i) "Person" means an individual, a corporation, a limited liability company, a partnership, an unincorporated association, or a governmental entity.

(j) "Provider" has the meaning set out in IC 16-18-2-295(b) and includes employees of the state department of health or local boards of health who create patient records at the request of another provider or who are social workers and create records concerning the family background of children who may need assistance.

(k) "Public agency" means the following:

(1) Any board, commission, department, division, bureau, committee, agency, office, instrumentality, or authority, by whatever name designated, exercising any part of the executive, administrative, judicial, or legislative power of the state.

(2) Any:



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- 1 (A) county, township, school corporation, city, or town, or any
 2 board, commission, department, division, bureau, committee,
 3 office, instrumentality, or authority of any county, township,
 4 school corporation, city, or town;
 5 (B) political subdivision (as defined by IC 36-1-2-13); or
 6 (C) other entity, or any office thereof, by whatever name
 7 designated, exercising in a limited geographical area the
 8 executive, administrative, judicial, or legislative power of the
 9 state or a delegated local governmental power.
- 10 (3) Any entity or office that is subject to:
 11 (A) budget review by either the state board of tax
 12 commissioners or the governing body of a county, city, town,
 13 township, or school corporation; or
 14 (B) an audit by the state board of accounts.
- 15 (4) Any building corporation of a political subdivision that issues
 16 bonds for the purpose of constructing public facilities.
- 17 (5) Any advisory commission, committee, or body created by
 18 statute, ordinance, or executive order to advise the governing
 19 body of a public agency, except medical staffs or the committees
 20 of any such staff.
- 21 (6) Any law enforcement agency, which means an agency or a
 22 department of any level of government that engages in the
 23 investigation, apprehension, arrest, or prosecution of alleged
 24 criminal offenders, such as the state police department, the police
 25 or sheriff's department of a political subdivision, prosecuting
 26 attorneys, members of the excise police division of the alcoholic
 27 beverage commission, conservation officers of the department of
 28 natural resources, and the security division of the state lottery
 29 commission.
- 30 (7) Any license branch staffed by employees of the bureau of
 31 motor vehicles commission under IC 9-16.
- 32 (8) The state lottery commission, including any department,
 33 division, or office of the commission.
- 34 (9) The Indiana gaming commission established under IC 4-33,
 35 including any department, division, or office of the commission.
- 36 (10) The Indiana horse racing commission established by IC 4-31,
 37 including any department, division, or office of the commission.
- 38 **(11) Any other entity created by a public agency to take**
 39 **official action on public business. As used in this subdivision,**
 40 **"official action" and "public business" have the meanings set**
 41 **forth in IC 5-14-1.5-2.**
- 42 (I) "Public record" means any writing, paper, report, study, map,

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photograph, book, card, tape recording, or other material that is created, received, retained, maintained, used, or filed by or with a public agency and which is generated on paper, paper substitutes, photographic media, chemically based media, magnetic or machine readable media, electronically stored data, or any other material, regardless of form or characteristics.

(m) "Standard-sized documents" includes all documents that can be mechanically reproduced (without mechanical reduction) on paper sized eight and one-half (8 1/2) inches by eleven (11) inches or eight and one-half (8 1/2) inches by fourteen (14) inches.

(n) "Trade secret" has the meaning set forth in IC 24-2-3-2.

(o) "Work product of an attorney" means information compiled by an attorney in reasonable anticipation of litigation and includes the attorney's:

- (1) notes and statements taken during interviews of prospective witnesses; and
- (2) legal research or records, correspondence, reports, or memoranda to the extent that each contains the attorney's opinions, theories, or conclusions.

This definition does not restrict the application of any exception under section 4 of this chapter.

SECTION 5. IC 5-14-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 3. (a) Any person may inspect and copy the public records of any public agency during the regular business hours of the agency, except as provided in section 4 of this chapter. A request for inspection or copying must:

- (1) identify with reasonable particularity the record being requested; and
- (2) be, at the discretion of the agency, in writing on or in a form provided by the agency.

No request may be denied because the person making the request refuses to state the purpose of the request, unless such condition is required by other applicable statute.

(b) A public agency may not deny or interfere with the exercise of the right stated in subsection (a). **Records shall be made available for copying and inspection in an expeditious manner.** The public agency shall either:

- (1) provide the requested copies to the person making the request; or
- (2) allow the person to make copies:
 - (A) on the agency's equipment; or
 - (B) on his own equipment.



(c) Notwithstanding subsections (a) and (b), a public agency may or may not do the following:

(1) In accordance with a contract described in section 3.5 of this chapter, permit a person to inspect and copy through the use of enhanced access public records containing information owned by or entrusted to the public agency.

(2) Permit a governmental entity to use an electronic device to inspect and copy public records containing information owned by or entrusted to the public agency.

(d) Except as provided in subsection (e), a public agency that maintains or contracts for the maintenance of public records in an electronic data storage system shall make reasonable efforts to provide to a person making a request a copy of all disclosable data contained in the records on paper, disk, tape, drum, or any other method of electronic retrieval if the medium requested is compatible with the agency's data storage system. This subsection does not apply to an electronic map (as defined by IC 5-14-3-2).

(e) A state agency may adopt a rule under IC 4-22-2, and a political subdivision may enact an ordinance, prescribing the conditions under which a person who receives information on disk or tape under subsection (d) may or may not use the information for commercial purposes, including to sell, advertise, or solicit the purchase of merchandise, goods, or services, or sell, loan, give away, or otherwise deliver the information obtained by the request to any other person (as defined in IC 5-14-3-2) for these purposes. Use of information received under subsection (d) in connection with the preparation or publication of news, for nonprofit activities, or for academic research is not prohibited. A person who uses information in a manner contrary to a rule or ordinance adopted under this subsection may be prohibited by the state agency or political subdivision from obtaining a copy or any further data under subsection (d).

(f) A public agency may not enter into or renew a contract or an obligation:

(1) for the storage or copying of public records; or

(2) that requires the public to obtain a license or pay copyright royalties for obtaining the right to inspect and copy the records unless otherwise provided by applicable statute;

if the contract, obligation, license, or copyright unreasonably impairs the right of the public to inspect and copy the agency's public records.

(g) If this section conflicts with IC 3-7, the provisions of IC 3-7 apply.

SECTION 6. IC 5-14-3-4 IS AMENDED TO READ AS FOLLOWS



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[EFFECTIVE JULY 1, 1999]: Sec. 4. (a) The following public records are excepted from section 3 of this chapter and may not be disclosed by a public agency, unless access to the records is specifically required by a state or federal statute or is ordered by a court under the rules of discovery:

- (1) Those declared confidential by state statute.
 - (2) Those declared confidential by rule adopted by a public agency under specific authority to classify public records as confidential granted to the public agency by statute.
 - (3) Those required to be kept confidential by federal law.
 - (4) Records containing trade secrets.
 - (5) Confidential financial information obtained, upon request, from a person. However, this does not include information that is filed with or received by a public agency pursuant to state statute.
 - (6) Information concerning research, including actual research documents, conducted under the auspices of an institution of higher education, including information:
 - (A) concerning any negotiations made with respect to the research; and
 - (B) received from another party involved in the research.
 - (7) Grade transcripts and license examination scores obtained as part of a licensure process.
 - (8) Those declared confidential by or under rules adopted by the supreme court of Indiana.
 - (9) Patient medical records and charts created by a provider, unless the patient gives written consent under IC 16-39.
- (b) Except as otherwise provided by subsection (a), the following public records shall be excepted from section 3 of this chapter at the discretion of a public agency:
- (1) Investigatory records of law enforcement agencies. However, certain law enforcement records must be made available for inspection and copying as provided in section 5 of this chapter.
 - (2) The work product of an attorney representing, pursuant to state employment or an appointment by a public agency:
 - (A) a public agency;
 - (B) the state; or
 - (C) an individual.
 - (3) Test questions, scoring keys, and other examination data used in administering a licensing examination, examination for employment, or academic examination before the examination is given or if it is to be given again.
 - (4) Scores of tests if the person is identified by name and has not

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consented to the release of his scores.

(5) The following:

(A) Records relating to negotiations between the department of commerce, the Indiana development finance authority, the film commission, the Indiana business modernization and technology corporation, or economic development commissions with industrial, research, or commercial prospects, if the records are created while negotiations are in progress.

(B) Notwithstanding clause (A), the terms of the final offer of public financial resources communicated by the department of commerce, the Indiana development finance authority, the film commission, the Indiana business modernization and technology corporation, or economic development commissions to an industrial, a research, or a commercial prospect shall be available for inspection and copying under section 3 of this chapter after negotiations with that prospect have terminated.

(C) When disclosing a final offer under clause (B), the department of commerce shall certify that the information being disclosed accurately and completely represents the terms of the final offer.

(6) Records that are intra-agency or interagency advisory or deliberative material, including material developed by a private contractor under a contract with a public agency, that are expressions of opinion or are of a speculative nature, and that are communicated for the purpose of decision making. **However, this subdivision does not apply to records or parts of records that are:**

(A) **statistical or factual tabulations or data; or**

(B) **final agency policy or determinations.**

(7) Diaries, journals, or other personal notes serving as the functional equivalent of a diary or journal.

(8) Personnel files of public employees and files of applicants for public employment, except for:

(A) the name, compensation, job title, business address, business telephone number, job description, education and training background, previous work experience, or dates of first and last employment of present or former officers or employees of the agency;

(B) information relating to the status of any formal charges against the employee; and

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(C) information concerning disciplinary actions in which final action has been taken and that resulted in the employee being disciplined or discharged.

However, all personnel file information shall be made available to the affected employee or his representative. This subdivision does not apply to disclosure of personnel information generally on all employees or for groups of employees without the request being particularized by employee name.

(9) Minutes or records of hospital medical staff meetings.

(10) Administrative or technical information that would jeopardize a recordkeeping or security system.

(11) Computer programs, computer codes, computer filing systems, and other software that are owned by the public agency or entrusted to it and portions of electronic maps entrusted to a public agency by a utility.

(12) Records specifically prepared for discussion or developed during discussion in an executive session under IC 5-14-1.5-6.1. However, this subdivision does not apply to that information required to be available for inspection and copying under subdivision (8).

(13) The work product of the legislative services agency under personnel rules approved by the legislative council.

(14) The work product of individual members and the partisan staffs of the general assembly.

(15) The identity of a donor of a gift made to a public agency if:

(A) the donor requires nondisclosure of his identity as a condition of making the gift; or

(B) after the gift is made, the donor or a member of the donor's family requests nondisclosure.

(16) Library or archival records:

(A) which can be used to identify any library patron; or

(B) deposited with or acquired by a library upon a condition that the records be disclosed only:

(i) to qualified researchers;

(ii) after the passing of a period of years that is specified in the documents under which the deposit or acquisition is made; or

(iii) after the death of persons specified at the time of the acquisition or deposit.

However, nothing in this subdivision shall limit or affect contracts entered into by the Indiana state library pursuant to IC 4-1-6-8.

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(17) The identity of any person who contacts the bureau of motor vehicles concerning the ability of a driver to operate a motor vehicle safely and the medical records and evaluations made by the bureau of motor vehicles staff or members of the driver licensing advisory committee. However, upon written request to the commissioner of the bureau of motor vehicles, the driver must be given copies of the driver's medical records and evaluations that concern the driver.

(c) Notwithstanding section 3 of this chapter, a public agency is not required to create or provide copies of lists of names and addresses, unless the public agency is required to publish such lists and disseminate them to the public pursuant to statute. However, if a public agency has created a list of names and addresses, it must permit a person to inspect and make memoranda abstracts from the lists unless access to the lists is prohibited by law. The following lists of names and addresses may not be disclosed by public agencies to commercial entities for commercial purposes and may not be used by commercial entities for commercial purposes:

- (1) A list of employees of a public agency.
- (2) A list of persons attending conferences or meetings at a state institution of higher education or of persons involved in programs or activities conducted or supervised by the state institution of higher education.
- (3) A list of students who are enrolled in a public school corporation if the governing body of the public school corporation adopts a policy:
 - (A) prohibiting the disclosure of the list to commercial entities for commercial purposes; or
 - (B) specifying the classes or categories of commercial entities to which the list may not be disclosed or by which the list may not be used for commercial purposes.

A policy adopted under subdivision (3) must be uniform and may not discriminate among similarly situated commercial entities.

(d) Nothing contained in subsection (b) shall limit or affect the right of a person to inspect and copy a public record required or directed to be made by any statute or by any rule of a public agency.

(e) Notwithstanding any other law, a public record that is classified as confidential, other than a record concerning an adoption, shall be made available for inspection and copying seventy-five (75) years after the creation of that record.

(f) Notwithstanding subsection (e) and section 7 of this chapter:

- (1) public records subject to IC 5-15 may be destroyed only in



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1 accordance with record retention schedules under IC 5-15; or
 2 (2) public records not subject to IC 5-15 may be destroyed in the
 3 ordinary course of business.

4 SECTION 7. IC 5-14-3-5 IS AMENDED TO READ AS FOLLOWS
 5 [EFFECTIVE JULY 1, 1999]: Sec. 5. (a) If a person is arrested or
 6 summoned for an offense, the following information shall be made
 7 available for inspection and copying:

8 (1) Information that identifies the person including his name, age,
 9 and address.

10 (2) Information concerning any charges on which the arrest or
 11 summons is based.

12 (3) Information relating to the circumstances of the arrest or the
 13 issuance of the summons, such as the:

14 (A) time and location of the arrest or the issuance of the
 15 summons;

16 (B) investigating or arresting officer (other than an undercover
 17 officer or agent); and

18 (C) investigating or arresting law enforcement agency.

19 (b) If a person is received in a jail or lock-up, the following
 20 information shall be made available for inspection and copying:

21 (1) Information that identifies the person including his name, age,
 22 and address.

23 (2) Information concerning the reason for the person being placed
 24 in the jail or lock-up, including the name of the person on whose
 25 order the person is being held.

26 (3) The time and date that the person was received and the time
 27 and date of his discharge or transfer.

28 (4) The amount of the person's bail or bond, if it has been fixed.

29 (c) An agency shall ~~maintain a daily log or record that lists~~
 30 ~~suspected crimes, accidents, or complaints, and make~~ the following
 31 information ~~shall be made~~ available for inspection and copying **in**
 32 **compliance with this chapter not later than twenty-four (24) hours**
 33 **after a suspected crime, accident, or complaint has been reported**
 34 **to the agency:**

35 (1) The time, substance, and location of all complaints or requests
 36 for assistance received by the agency.

37 (2) The time and nature of the agency's response to all complaints
 38 or requests for assistance.

39 (3) If the incident involves an alleged crime or infraction:

40 (A) the time, date, and location of occurrence;

41 (B) the name and age of any victim, unless the victim is a
 42 victim of a crime under IC 35-42-4;

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- 1 (C) the factual circumstances surrounding the incident; and
 2 (D) a general description of any injuries, property, or weapons
 3 involved.

4 The information required in this subsection shall be made available for
 5 inspection and copying in ~~compliance with this chapter. The record~~
 6 ~~containing the information must be created not later than twenty-four~~
 7 ~~(24) hours after the suspected crime, accident, or complaint has been~~
 8 ~~reported to the agency. the form of a daily log or record. However,~~
 9 **if the agency does not prepare a daily log or record within**
 10 **twenty-four (24) hours after a suspected crime, accident, or**
 11 **complaint has been reported to the agency, the agency shall**
 12 **immediately make available for inspection and copying all**
 13 **documents or parts of documents prepared by the investigating**
 14 **officer or employee that contain the information described in**
 15 **subdivisions (1) through (3).**

16 (d) This chapter does not affect IC 5-2-4, IC 5-2-5, or IC 5-11-1-9.

17 SECTION 8. IC 16-18-2-168 IS AMENDED TO READ AS
 18 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 168. (a) "Health
 19 records", for purposes of IC 16-39, means written or printed
 20 information possessed by a provider concerning any diagnosis,
 21 treatment, or prognosis of the patient.

22 (b) The term includes mental health records and alcohol and drug
 23 abuse records.

24 (c) **The term does not include information concerning**
 25 **emergency ambulance services described in IC 16-31-2-11(d).**

26 SECTION 9. IC 16-19-3-25 IS AMENDED TO READ AS
 27 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 25. (a) This section
 28 applies to inspections performed by the state department.

29 (b) Except as provided in this section, until the recipient of an
 30 inspection report has had ten (10) calendar days to respond to the
 31 inspection report the state department may not release to the public:

- 32 (1) the inspection report; or
 33 (2) records relating to the inspection.

34 (c) The state department shall release to the public an inspection
 35 report and records relating to the inspection earlier than the time stated
 36 in subsection (b) if the ~~state department determines that the release is~~
 37 **necessary to: report contains information concerning:**

- 38 (1) ~~protect the public from actual harm or~~ an imminent threat to
 39 **the health or safety of the public;**
 40 (2) ~~protect the consumers of health services from actual harm or~~
 41 an imminent threat to **the health or safety of the consumers of**
 42 **health services; or**



(3) ~~protect the public from~~ a gross deception or fraud **against the public.**

(d) The state department shall release to the public an inspection report and records relating to the inspection earlier than the time period in subsection (b):

- (1) if the state department orders closure of a regulated entity; or
- (2) after receipt of the regulated entity's written consent to the release of the inspection report and records relating to the inspection.

(e) With respect to a recipient of an inspection performed by the state department, the period of time described in subsection (b) begins as follows:

- (1) If the inspection report is personally delivered to the recipient, on the date of delivery.
- (2) If the inspection report is deposited in the United States mail, three (3) days after the date of deposit in the United States mail.

(f) After an inspection report is released under this section, the inspection report and records relating to the inspection may be inspected and copied as set forth in IC 5-14-3. **In addition, all notes and other documents submitted to the state department by an inspector with respect to an inspection report released under this section may be inspected and copied as set forth in IC 5-14-3. However, the state department may withhold information with respect to the identities of any persons who are:**

- (1) consumers of health services;
- (2) family members or guardians of consumers of health services; or
- (3) employees of the entity that is the subject of the inspection report;

who provided information contained in the inspector's notes and other documents as necessary to assure the continued health and safety of those consumers of health services or to prevent retaliation against employees of the entity that is the subject of the inspection report.

SECTION 10. IC 16-31-2-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 11. (a) The commission shall develop procedures for ongoing review of all emergency ambulance services.

(b) The commission may review any prehospital ambulance rescue or report record regarding an emergency patient that is utilized or compiled by an emergency ambulance service employing paramedics, emergency medical technicians, or advanced emergency medical



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1 technicians. However, **except as provided by subsection (d)**, those
 2 records shall remain confidential and may be used solely for the
 3 purpose of compiling data and statistics. The use of such data or
 4 statistics is subject to IC 4-1-6.

5 (c) The commission may develop and oversee experimental study
 6 projects conducted by ambulance service providers in limited
 7 geographic areas of Indiana. These study projects must be developed
 8 and conducted in accordance with rules adopted by the commission
 9 under IC 4-22-2. These study projects must be designed to test the
 10 efficacy of new patient care techniques and new ambulance service
 11 systems.

12 (d) **This subsection applies to emergency ambulance services**
 13 **that are provided by or under a contract with an entity that is a**
 14 **public agency for purposes of IC 5-14-3. The following**
 15 **information, if contained in a prehospital ambulance rescue or**
 16 **report record regarding an emergency patient, is public**
 17 **information and must be made available for inspection or copying**
 18 **under IC 5-14-3:**

19 (1) The date, time, and location of the request for emergency
 20 ambulance services.

21 (2) The time and nature of the response to the request for
 22 emergency ambulance services.

23 (3) The name, age, and address of the patient.

24 (4) The general condition of the patient.

25 (5) The time of arrival at the scene where the patient was
 26 located.

27 (6) The time of departure from the scene where the patient
 28 was located.

29 (7) The name of the facility, if any, to which the patient was
 30 delivered for further treatment and the time of arrival at that
 31 facility.

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